

## § 1952.346

or facility. In either of the two aforementioned circumstances, Federal enforcement may be exercised immediately upon agreement between Federal and State OSHA.

(c) Federal authority under provisions of the Act not listed in section 18(e) is unaffected by final approval of the plan. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act, although such complaints may be referred to the State for investigation. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination, although such standards may not be Federally applied. In the event that the State's section 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in that State.

(d) As required by section 18(f) of the Act, OSHA will continue to monitor the operations of the Wyoming State program to assure that the provisions of the State plan are substantially complied with and that the program remains at least as effective as the Federal program. Failure by the State to comply with its obligations may result in the revocation of the final determination under section 18(e), resumption of Federal enforcement, and/or proceedings for withdrawal of plan approval.

[50 FR 26559, June 27, 1985, as amended at 62 FR 2565, Jan. 17, 1997; 65 FR 36628, June 9, 2000]

## § 1952.346 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations:

Office of State Programs, Occupational Safety and Health Administration, U.S. De-

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partment of Labor, 200 Constitution Avenue, NW, Room N3700, Washington, DC 20210;

Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, 1999 Broadway Suite 1690, Denver, Colorado 80202-5716; and

Office of the Assistant Administrator, Worker's Safety and Compensation Division, Wyoming Department of Employment, Herschler Building, 2nd Floor East, 122 West 25th Street, Cheyenne, Wyoming 82002.

[65 FR 36629, June 9, 2000]

## § 1952.347 Changes to approved plans.

In accordance with part 1953 of this chapter, the following Wyoming plan changes were approved by the Assistant Secretary:

(a) *Legislation.* (1) The State submitted amendments to its Occupational Health and Safety Act (Laws 1983, chapter 172), which became effective on May 27, 1983, modifying the powers and duties of the Occupational Health and Safety Commission, abolishing the powers of the review board and Commission to hear contested cases and establishing an independent hearing officer to hear contested cases, providing procedures for hearings and appeals whereby the Commission makes final administrative decisions in contested cases and the party adversely affected may appeal to the District Court, making penalties for posting violations discretionary (although the State guidelines on penalties for posting violations parallel OSHA's and are set forth in the Wyoming Operations Manual), requiring written notification to employers of their right to refuse entry, and creating the Department of Occupational Health and Safety. The Assistant Secretary approved these amendments on February 27, 1989.

(2) On March 29, 1994, the Assistant Secretary approved Wyoming's revised statutory penalty levels which are the same as the revised Federal penalty levels contained in section 17 of the Act as amended on November 5, 1990.

(b) *Regulations.* (1) The State submitted amendments to its Rules of Practice and Procedure pertaining to contested cases, hearings, discrimination, and petitions for modification of

abatement; and making the regulations consistent with other statutory changes made to its Occupational Health and Safety Act which became effective on September 6, 1984, except amendment to Chapter IV, Enforcement which became effective on March 28, 1985. The Assistant Secretary approved these amendments on February 27, 1989.

(2) [Reserved]

(c) *The Voluntary Protection Program.* On October 24, 1996, the Assistant Secretary approved Wyoming's plan supplement which is generally identical to the Federal Voluntary Protection Program, with the exception of organizational and position titles.

(d) *Temporary labor camps/field sanitation.* Effective February 3, 1997, the Assistant Secretary approved Wyoming's plan amendment, dated July 19, 1996, relinquishing coverage for the issues of field sanitation (29 CFR 1928.110) and temporary labor camps (29 CFR 1910.142) in agriculture (except for agricultural temporary labor camps associated with egg, poultry or red meat production, or the post-harvest processing of agricultural or horticultural commodities.) The Employment Standards Administration, U.S. Department of Labor, has assumed responsibility for enforcement of these Federal OSHA standards in agriculture in Wyoming pursuant to Secretary of Labor's Order 5-96, dated December 27, 1996.

[54 FR 9045, Mar. 3, 1989, as amended at 59 FR 14556, Mar. 29, 1994; 61 FR 55099, Oct. 24, 1996; 62 FR 2565, Jan. 17, 1997]

### Subpart CC—Arizona

#### § 1952.350 Description of the plan as initially approved.

(a)(1) The plan identifies the Arizona Industrial Commission, Division of Occupational Safety and Health, as the State agency designated to administer the plan throughout the State. It adopts the definition of occupational safety and health issues expressed in § 1902.2(c)(1) of this chapter. The State intends to adopt all Federal standards except those found in 29 CFR parts 1915, 1916, 1917 and 1918 (ship repairing, shipbuilding, shipbreaking, and longshoring) and those subparts of parts 1910 and 1926 pertaining to industries which

are not applicable to Arizona. In addition, the State intends to enforce elevator (ANSI) and boiler pressure vessel (ASME) standards for which there are no Federal counterparts.

(2) The plan provides a description of personnel employed under a merit system; the coverage of employees of political subdivisions; procedures for the development and promulgation of standards, including standards for the protection of employees against new and unforeseen hazards; and procedures for the prompt restraint or elimination of imminent danger situations.

(b)(1) The plan includes legislation enacted by the Arizona Legislature during its 1974 legislative session amending title 23, article 10 of the Arizona Revised Statutes to bring them into conformity with the requirements of part 1902 of this chapter. Under the legislation the Industrial Commission will have full authority to enforce and administer laws respecting the safety and health of employees in all workplaces of the State.

(2) The legislation is intended, among other things, to assure inspections in response to employee complaints; give employer and employee representatives an opportunity to accompany inspectors in order to aid inspections; notification of employees or their representatives when no compliance action is taken as a result of alleged violations; notification of employees of their protections and obligations; protection of employees against discharge or discrimination in terms and conditions of employment; adequate safeguards to protect trade secrets; sanctions against employers for violations of standards and orders; employer right of review to an Occupational Safety and Health Review Board and then the courts, and employee participation in review proceedings. The plan also proposes a program of voluntary compliance by employers and employees, including a provision for on-site consultation. The State's consultation program should not detract from its enforcement program and the State has given assurances that it will meet the conditions set forth in the Washington Decision (38 FR 2421, January 26, 1973).